

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. C-3788
Application of Cable USA III,)
LLC, Scottsbluff, seeking)
authority to provide local)
exchange and interexchange) ORDER GRANTING APPLICATION
carrier of telecommunication) AND CANCELLING HEARING
services in the State of)
Nebraska.)

Entered: September 11, 2007

BY THE COMMISSION:

By its application filed March 28, 2007, Cable USA III, LLC, ("Cable USA" or "Applicant"), Scottsbluff, seeks authority to operate as a facilities-based and resale carrier of local exchange and interexchange telecommunications services within the State of Nebraska. Notice of the application was published in the Daily Record, Omaha, Nebraska, on April 5, 2007. A Petition of Formal Intervention was timely filed by the Rural Telecommunications Coalition of Nebraska ("RTCN") which includes Benkelman Telephone Company, Inc., Diller Telephone Company, Glenwood Telephone Membership Corporation, Hartman Telephone Exchanges, Inc., Hemingford Cooperative Telephone Company, Keystone-Arthur Telephone Company, Mainstay Communications, Plainview Telephone Company, Wauneta Telephone Company, and Westel Systems f/k/a Hooper Telephone Company.

A planning conference was held on June 19, 2007, and a Hearing Officer order was issued setting this matter for a hearing on September 18, 2007, at 1:30 p.m. CST in the Commission Hearing Room. Subsequently, RTCN entered into a stipulation with Applicant; therefore this application is processed pursuant to the Commission's Rule of Modified Procedure.

O P I N I O N S A N D F I N D I N G S

Applicant is a limited liability company organized under Nebraska law with its principal offices located in Scottsbluff, Nebraska. Applicant has no other authorities and does not provide service in any other states. Neither Applicant nor its officers have been the subject of any formal complaints or other investigatory proceedings.

Applicant seeks authority to provide facilities-based and resold local exchange and interexchange telecommunication services throughout the State of Nebraska. Applicant plans to provide switched and dedicated local exchange telecommunications services and interexchange services using its own network and network services provided by the Incumbent Local Exchange Carriers (ILECs). Cable USA's proposed CLEC network will consist of diversely routed fiber backbone facilities consisting of three layers, the switch layer, transport layer, and physical layer. The Applicant states that its CLEC network will initially connect the cities of Grand Island, Kearney, Hastings, Nebraska and surrounding area. Applicant has no business plans to provide local exchange services in areas served by any ILEC in Nebraska that is eligible for a small or rural carrier exemption pursuant to Section 251(f)(1) of the Telecommunications Act of 1996.

Applicant proposes to offer local service that will enable customers to originate and terminate calls to other customers served by the Applicant's network as well as customers of the ILECs. Customers will also be able to access the long distance interexchange carrier of their choice and the Applicant will provide switched access telecommunications services. Cable USA states additionally it proposes to provide special access, private line services and enhanced data and information services to its customers. Cable USA proposes to maintain a customer service network for billing and customer service-related issues.

Further, the Applicant shall and has agreed to comply with all state and federal rules and regulations governing the provisions of dial tone or voice grade service.

Exhibits C and D to the application contain financial statements, including balance sheets and profit/loss statements for 2004, 2005, and 2006. Applicant states that it may require advanced payments and/or deposits before service and facilities are furnished, under certain terms and conditions.

Applicant states it possesses the necessary expertise and management team to serve its customers. In Exhibit B to the application, Applicant provided profiles of its key executive and technical management.

Applicant states a grant of this application will serve the public interest because Cable USA proposes to serve some of the state's smaller communities, which will benefit directly through the provision of the Applicant's services equal to those available in larger metropolitan areas. Cable USA also maintains the public will benefit indirectly because the competitive presence of the Applicant in Nebraska will increase the incentives for other telecommunications providers to operate more efficiently, offer more innovative services, reduce their prices, and improve the quality of their services. In addition, the Applicant states that its services will provide Nebraska customers with access to new technologies and service choices, and should permit customers to achieve increased efficiencies and cost savings. Applicant further states that granting its application will also preserve and advance universal service, protect the public safety and welfare, ensure the continuous quality of telecommunications services with Nebraska and safeguard the rights of Nebraska consumers. Finally, Cable USA believes its proposed services will promote the national policies set forth in the Telecommunications Act of 1996 and the objectives of the Commission.

The Commission considers this application for authority in light of the following criteria and standards established in the Commission's telecommunications rules:

- (a) Whether the Applicant has provided the information required by the Commission;
- (b) Whether the Applicant has provided a performance bond, if required;
- (c) Whether the Applicant possesses adequate financial resources to provide the proposed service;
- (d) Whether the Applicant possesses adequate technical competence and resources to provide the proposed service;
- (e) Whether the Applicant possesses adequate managerial competence to provide the proposed service; and

- (f) Whether granting the Applicant a certificate preserves and advances universal service, protects the public safety and welfare, ensures the continued quality of telecommunications services and safeguards the rights of consumers, pursuant to Section 253(b) of the Act.

Applicant has demonstrated that it meets the standards of financial, technical, and managerial competence and all other criteria necessary to provide local exchange and interexchange services in the State of Nebraska.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria to apply when considering applications to provide interexchange and local exchange services. All telecommunications carriers seeking such a certificate must demonstrate that they meet, at a minimum, the standards and criteria set forth herein.

Before the Applicant is allowed to provide local exchange service to its users, it must either:

1. Through negotiation or arbitration, reach an interconnection/resale agreement with the pertinent incumbent local exchange carrier and receive Commission approval of the interconnection/resale agreement; or
2. In the event a certified local exchange carrier provides a wholesale tariff, purchase rates from that tariff, file its own tariff and receive Commission approval of its tariff.

This order does not terminate, waive or in any manner diminish the exemptions and protections created by the Act for rural carriers, as defined by the Act. This order does not address the issue of the rural local exchange carrier exemption under the Act. Rural exemptions may be terminated, suspended or modified only as provided in Section 251(f) of the Act.

Prior to providing service in any area in the State of Nebraska, Applicant must file tariffs in accordance with the provisions of Section 002.21 of the Neb. Admin. R. & Regs. Title 291, Ch. 5.

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Upon the offering of interexchange and/or local exchange services in the State of Nebraska, Applicant would be subject to the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other local exchange company except those obligations imposed on ILECs pursuant to Section 251(c) of the Act.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-3788 be, and hereby is, granted.

IT IS FURTHER ORDERED that the Hearing scheduled for the above-captioned matter on **September 18, 2007, at 1:30 p.m. CST** in the Commission Hearing Room be, and is hereby, cancelled.

IT IS FURTHER ORDERED that Applicant is obligated to abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other interexchange and local exchange carriers, except obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Act.

IT IS FURTHER ORDERED that, to the extent Applicant provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-301 through 86-315 (Relay Act) and defined in Neb. Admin. R. & Reg. Title 291, Ch. 5 §001.01B, the Applicant shall collect from its subscribers a surcharge (Relay Surcharge) pursuant to the relay act and the Commission's annual orders establishing the amount of the surcharge, and shall remit to the Commission the proceeds from the relay surcharge as provided by the Relay Act.

IT IS FURTHER ORDERED that the Applicant comply with all necessary statutes and Commission Rules and Regulations as they pertain to the Nebraska Universal Service Fund.

IT IS FURTHER ORDERED that Applicant shall file, in accordance with the applicable statutes, on or before April 30 of each year, an annual report with the Commission

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consisting of: (a) a copy of any report filed with the Federal Communications Commission; (b) a copy of any annual report to stockholders; and (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission. If such reports are unavailable, Applicant shall file a balance sheet and income statement for the previous year of operation, and for the State of Nebraska on a combined interstate-intrastate basis, the investment in the telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses and taxes.

IT IS FURTHER ORDERED that within 30 days from the entry of this order, that the Applicant file a tariff and pay appropriate filing fees with the Commission as required by state statutes and the Commission's regulations.

IT IS FINALLY ORDERED that this order be, and hereby is, made the Commission's official Certificate of Public Convenience and Necessity to the Applicant to provide facilities-based and resold interexchange and local exchange telecommunications services in the State of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 11th day of September, 2007.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Gerald L. Up

Chairman

Anne C. Boyle

ATTEST:

Tim Schram

//s// Rod Johnson

//s// Frank E. Landis

John Burian

Deputy Director